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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,035	11/23/2001	Michael D. Dahlin	1039-0030	4451
34456	7590	12/15/2005		
TOLER & LARSON & ABEL L.L.P. 5000 PLAZA ON THE LAKE STE 265 AUSTIN, TX 78746			EXAMINER GILLIGAN, CHRISTOPHER L	
			ART UNIT 3626	PAPER NUMBER

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,035

Applicant(s)

DAHLIN ET AL.

Examiner

Luke Gilligan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>22304,81604,92205</u> . | 6) <input type="checkbox"/> Other: _____ |

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Claims 1-27 have been examined.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 8-13, 17-21, 25 , and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown, U.S. Patent No. 6,161,095.

3. As per claim 1, Brown teaches a system for specifying at least one medical diagnostic and treatment algorithm in a healthcare workflow, the at least one medical diagnostic and treatment algorithm being associated with at least one disease management entity, the system comprising: at least one server having at least one medical diagnostic and treatment algorithm (see column 3, lines 7-17); a user interface in communication with the at least one server, the user interface operable to display information associated with the healthcare workflow to a user (see column 5, lines 3-8); and the at least one server operable to modify the healthcare workflow in accordance with the at least one medical diagnostic and treatment algorithm (see column 5, line 58 – column 6, line 1).

4. As per claim 2, Brown teaches the system of claim 1 as described above. Brown further teaches the user is a healthcare professional (see column 6, lines 1-4).

5. As per claim 3, Brown teaches the system of claim 1 as described above. Brown further teaches the user is a patient (see column 5, line 58 – column 6, line 1).

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6. As per claim 4, Brown teaches the system of claim 1 as described above. Brown further teaches the modification of the healthcare workflow is represented by the display of a banner (see column 5, lines 41-47, the Examiner is broadly interpreting the displayed messages on the presentation element to be a form of "banner" as recited in the claim).

7. As per claim 8, Brown teaches the system of claim 1 as described above. Brown further teaches the modification of the healthcare workflow is represented by the display of a recommended step therapy (see column 5, line 58 – column 6, line 1).

8. As per claim 9, Brown teaches the system of claim 1 as described above. Brown further teaches the user interface is a portable device (see column 6, lines 37-43).

9. Claims 10-13 and 17 recite substantially similar portable device limitations as system claims 1-4 and 8. Since the user interface of Brown is a portable device as described above, these claims are rejected for substantially similar reasons as given above.

10. Claims 18-21 and 25 recite substantially similar method limitations as system claims 1-4 and 8 and, as such, are rejected for similar reasons as given above.

11. Claim 27 recites substantially similar method limitations as system claim 1 and, as such, is rejected for similar reasons as given above.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 5-6, 14-15, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, U.S. Patent No. 6,161,095 in view of Iliff, U.S. Patent No. 6,206,829.

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14. As per claim 5, Brown teaches the system of claim 1 as described above. Brown does not explicitly teach the modification of the healthcare workflow is represented by the display of a highlighted choice. Iliff teaches a medical treatment advice system that includes displaying to a user a modification of a healthcare workflow represented by a highlighted choice (see column 79, lines 59-63 and Figure 33). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Brown. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of improving response to feedback form patients (see column 2, lines 22-26).

15. As per claim 6, Brown teaches the system of claim 1 as described above. Brown does not explicitly teach the modification of the healthcare workflow is represented by the display of a question. Iliff teaches a medical treatment advice system that includes displaying to a user a modification of a healthcare workflow represented by the display of a question (see column 79, lines 59-63 and Figure 33). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Brown. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of improving response to feedback form patients (see column 2, lines 22-26).

16. Claims 14-15 and 22-23 recite substantially similar portable device and method limitations to system claims 5-6 and, as such, are rejected for similar reasons as given above.

17. Claims 7, 16, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, U.S. Patent No. 6,161,095 in view of Schmidt et al., U.S. Patent No. 6,839,678.

18. As per claim 7, Brown teaches the system of claim 1 as described above. Brown does not explicitly teach the modification of the healthcare workflow is represented by the display of a notification of a drug trial. Schmidt teaches automatically determining and notifying a patient of

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eligibility for medical studies by a central server (see column 2, lines 9-19). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Brown. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of broaden the application of reminder and expert knowledge leveraging systems beyond medication regimens as suggested by Brown (see column 2, lines 27-30 of Brown).

19. Claims 16 and 24 recite substantially similar portable device and method limitations to system claim 7 and, as such, are rejected for similar reasons as given above.

20. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, U.S. Patent No. 6,161,095 in view of Ferguson et al., U.S. Patent No. 6,454,708.

21. As per claim 26, Brown teaches the method of claim 18 as described above. Brown does not explicitly teach collecting medical information by interfacing with a smart card. Ferguson teaches collecting medical information by interfacing with a smart card (see column 4, lines 40-48).). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Brown. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of reducing the expense required for medical personnel to individually monitor, evaluate and modify treatment regimens (see column 2, lines 27-30 of Brown and column 4, lines 30-33 of Ferguson).

Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

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23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12/9/05


C. Luke Gilligan
Patent Examiner
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